

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 25 November 2021

Public Authority: London Borough of Croydon

Address: Bernard Weatherill House
8 Mint Walk
Croydon
CR0 1EA

Decision (including any steps ordered)

1. The complainant requested information from the London Borough of Croydon ("LBC") relating to planning applications.
2. The Commissioner's decision is that LBC has failed to respond to the request within 20 working days and has therefore breached regulation 5(2) of the EIR.
3. The Commissioner requires LBC to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with its obligations under the EIR.
4. LBC must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Freedom of Information Act and may be dealt with as a contempt of court.

Request and response

5. On 15 September 2021, the complainant wrote to LBC and requested information in the following terms:

"I note that 'retrospective' planning application 21/01672/NMA (validated 1 April 2021) is still AWAITING DECISION.

This application is described as a "Non-material amendment to planning permission ref. 18/03682/CONR for the variation of condition 1 (in accordance with approved plans) attached to planning permission 17/03542/FUL". (The latest, relevant document added to the website was published on 26 May 2021).

I note that 'retrospective' planning application 21/01736/DISC (validated 7 April 2021) is also still AWAITING DECISION.

This application is with regard to the re-discharge of Conditions 2 (tree protection), 8 (construction logistics plan) and 9 (SuDS) attached to planning permission 18/03682/CONR. (The latest, relevant document added to the website was published on 6 April 2021).

Works have been allowed to continue on Site, despite the lack of approval for much of what had already been 'built' by the time these applications were submitted.

+++ Please provide COPIES of any information relating to how the LPA has so far attempted to determine these outstanding application. The information provided should include but not be restricted to the following:

+ correspondence with the applicant, agent and/or their consultants (from April 2021 to date), and

+ [internal and external] consultation and any comments provided by consultees [statutory or otherwise] in the same period."

6. LBC wrote to the complainant on 17 September 2021 to acknowledge the request.

Scope of the case

7. The complainant contacted the Commissioner 3 November 2021 to complain about LBC's failure to respond to his request.
8. The Commissioner contacted LBC on 8 November 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
9. The Commissioner also contacted the complainant on 8 November 2021 to explain that LBC had been given 10 working days from 8 November 2021 within which to provide a response to their request.
10. The complainant has provided evidence that he has received an acknowledgement from LBC but, by the date of this notice, had not received a substantive response to his information request.
11. The scope of this notice and the following analysis is to consider whether the LBC has complied with regulation 5(2) of the EIR.

Reasons for decision

12. Regulation 5(1) of the EIR states that:

"a public authority that holds environmental information shall make it available on request."

13. Regulation 5(2) of the EIR states that:

"Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request."

14. LBC did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner's decision is that LBC has breached regulation 5(2) of the EIR.

Right of appeal

15. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

16. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
17. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Michael Lea
Team Manager
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Wycliffe House
Water Lane
Wilmslow
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